

Introduction

[1] On October 18, 2023, the Tenant filed a Tenant Application to Determine Dispute (Form 2A) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application is seeking:

Other: for resident parking to be properly provided.

[2] On November 7, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Tenants and two Landlord representatives participated.

[3] All relevant documents (including the Notice of Hearing and Evidence Package) were properly served in accordance with subsection 100.(1) of the *Act*.

Issue to be Decided

- i. Does the Landlord have to provide additional parking for the Tenant?

Summary of the Evidence

[4] In August of 2022 the Landlord and the Tenant entered into a written fixed-term tenancy agreement for the Residential Property. The Residential Property consists of a unit in a multi-unit building. Rent is \$1,350.00 due on the first day of the month. A security deposit of \$1,350.00 was paid.

Tenant's Evidence and Submissions

[5] G.F. submitted 28 pages of evidence, including photographs, copies of messages from the Landlord, and a copy of the tenancy agreement.

[6] G.F. stated when the Tenants applied for the Residential Property, they indicated they required two parking spots. G.F. stated when their application was accepted, nothing was said by the Landlord about the parking request being an issue.

[7] G.F. stated he was in another province when C.M. signed the tenancy agreement and moved into the Residential Property. G.F. admitted that C.M. did not fully review the tenancy agreement prior to signing it. He stated the Tenants assumed that they would be given two parking spots. G.F. stated the Landlords should have notified the Tenants prior to accepting the application that only one parking spot was provided to each rental unit.

[8] G.F. stated the tenancy agreement states that "one parking lot is available for each unit." He stated that the agreement does not say "one parking spot" and the Tenants should have access to any free parking in the entire lot. G.F. stated if the Tenants are not provided an additional parking spot by the Landlords then the Tenants should be able to park in the visitor parking if those spaces are empty. G.F. stated the photographs submitted show that the visitor parking spaces are often empty.

[9] C.M. stated he agreed with G.F. and requested the Tenants be allowed to park in the visitor parking spots if the Tenants are not given an additional parking spot.

Landlord's Evidence and Submissions

[10] The Representatives submitted nine pages of evidence, including messages sent to the Tenants from the Representatives, messages from other tenants to the Representatives, and a copy of the tenancy agreement.

- [11] The Representatives stated that English is not their first language and they use the terms “parking lot” and “parking spot” interchangeably. They stated there is only one parking space available for each rental unit and this is stated in the tenancy agreement. The Representatives stated they notified the Tenants in writing several times that they only had access to one parking space and could not park in the visitor’s parking.
- [12] The Representatives stated other tenants have complained that the Tenants have been parking in other resident’s parking spots. They stated they cannot allow tenants to park in the visitor parking spots because they will get complaints that there is no parking for visitors. The Representatives stated the Tenants should have gotten clarification when they signed the tenancy agreement if they were not sure about parking.

Analysis

Issue i: Does the Landlord have to provide additional parking for the Tenant?

- [13] The Officer begins by referencing the relevant law for the Application. Section 21 of the *Act* states:
A landlord shall not terminate or restrict a service or facility if

(a) the service or facility is reasonably related to the tenant's use and enjoyment of the rental unit as living accommodation; or

(b) the service or facility is a term of the tenancy agreement.
- [14] The Officer notes that in such matters where a tenant alleges that a landlord contravened the *Act*, it is the tenant’s burden, or onus to prove, on a balance of probabilities, any and all claims. In this case, the Officer finds that the Tenant has not established that the Landlord has contravened section 21 of the *Act*.
- [15] When C.F. received a copy of the tenancy agreement, G.F. acknowledged C.F. did not review it fully before signing it and G.F. was in another province at the time. It wasn’t until a later date that the Tenants became aware they only had access to one parking space. G.F. stated that the Tenants requested two parking spots when they applied for the Residential Property and the Landlords remained silent on this this issue until after the tenancy agreement was signed.
- [16] The Officer notes that prior to signing a tenancy agreement, it is a tenant’s responsibility to read the agreement and to seek clarification from the landlord if there are any discrepancies. In this case, the Tenants did not fully review or seek clarification prior to signing the tenancy agreement.
- [17] Furthermore, although the tenancy agreement states one “parking lot” is available for each unit, the Representatives stated English is not their first language and they meant “parking spot.” The Officer notes it is not reasonable to conclude that each rental unit would be given access their own “parking lot” for parking. Again, this could have been clarified between the parties prior to signing the tenancy agreement.
- [18] The Officer finds that the Landlord has not contravened the *Act* and the Landlord is not required to provide additional parking for the Tenant. The Application is denied.

Conclusion

- [19] The Application is denied.
- [20] Order LD23-529 was served on the parties by email on November 15, 2023.

IT IS THEREFORE ORDERED THAT

A. The Application is denied.

DATED at Charlottetown, Prince Edward Island, this 15th day of November, 2023.

(sgd.) Mitchell King

Mitchell King
Residential Tenancy Officer

NOTICE

Right to Appeal

This Order can be appealed to the Island Regulatory and Appeals Commission (the "Commission") by serving a Notice of Appeal with the Commission and every party to this Order within 20 days of this Order. If a document is sent electronically after 5:00 p.m., it is considered received the next day that is not a holiday. If a document is sent by mail, it is considered served on the third day after mailing.

Filing with the Court

If no appeal has been made within the noted timelines, this Order can be filed with the Supreme Court of Prince Edward Island and enforced as if it were an order of the Court.